



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

April 15, 2019

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-232 U.S. Capitol
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
S-230 U.S. Capitol
Washington, D.C. 20510

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
H-204 U.S. Capitol
Washington, D.C. 20515

The Honorable Charles Schumer
Democratic Leader
U.S. Senate
S-221 U.S. Capitol
Washington, D.C. 20510

Dear Speaker Pelosi, Leader McConnell, Leader McCarthy, and Leader Schumer:

As state banking supervisors, we are responsible for ensuring the safety and soundness of state-chartered banks, and state-chartered credit unions in many jurisdictions. Banks and credit unions provide access to credit and serve an important role in civil society and in their communities. Many state banking supervisors also regulate money transmitters and nondepository financial companies, some of which have been providing services to marijuana businesses in the absence of traditional financial institutions.

The 116th Congress has a unique opportunity to address a significant conflict between federal and state law by addressing the issue of state legalization of marijuana and its relationship with the financial services industry. As of January 1, 2019, medical marijuana is available in 33 jurisdictions, representing 67% of the country's population. Nearly a dozen states have established adult-use marijuana programs and more states are likely to establish similar programs.

The marijuana related businesses in these jurisdictions are licensed and overseen by competent and skilled state agencies. These agencies prohibit illicit acquisition of marijuana products or unsatisfactory operational processes and maintain standards for entities involved in the growing, processing, and dispensing.

These business entities, however, still face challenges establishing and maintaining stable banking relationships with financial institutions because of the risks posed to the institutions.

Barriers for financial institutions to serve marijuana and ancillary businesses create a commercial risk from the lack of robust and comprehensive regulation and supervision and a diminished ability to identify operators acting to circumvent federal and state licensing and regulatory frameworks. This raises concerns with respect to tracking the flow of funds, issues of public safety because of cash volume, and a loss of economic activity, workforce development and community development opportunities.

While there are unresolved and differing opinions concerning marijuana policy, at the state and federal level, banking services availability has bipartisan support and is agnostic about the other issues pertaining to marijuana.

It is incumbent on Congress to resolve the conflict between state cannabis programs and federal statutes that effectively create unnecessary risk for banks seeking to operate in this space. The looming threat of civil actions, forfeiture of assets, reputational risk, and criminal penalties is not conducive to a legal, regulated marketplace. While Congress has taken some action, such as the Rohrabacher amendment prohibiting federal funds being used to inhibit state medicinal marijuana programs, this is an impermanent approach to an issue that requires a permanent resolution.

We urge Congress to consider legislation that creates a safe harbor for financial institutions to serve a state-compliant business or entrusts sovereign states with the full oversight and jurisdiction of marijuana-related activity. Establishing a safe harbor for banks to serve these entities would help reduce the risk associated with large cash-and-carry operations and bring the safeguards, activities, and sales associated with this business into the regulatory reporting compliance framework.

We must work together to look for solutions rather than ignoring the new policy landscape.

/s/
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Secretary
Pennsylvania Department of Banking and
Securities

/s/
Ken Boldt
Acting Bank Commissioner
Colorado Division of Banking

/s/
Patrice Walsh
Director
Alaska Division of Banking and Securities

/s/
Jorge L. Perez
Commissioner
Connecticut Department of Banking

/s/
Kevin B. Hagler
Commissioner
Georgia Department of Banking and Finance

/s/
Melanie Hall
Commissioner
Montana Division of Banking and Financial
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/s/
Iris Ikeda
Commissioner of Financial Institutions
Hawaii Department of Commerce and
Consumer Affairs

/s/
George E. Burns
Commissioner
Nevada Financial Institutions Division
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/s/
John Ducrest
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Louisiana Office of Financial Institutions

/s/
Marlene Caride
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Insurance

/s/
Lloyd P. LaFountain III
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Maine Bureau of Financial Institutions

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Utah Department of Financial Institutions